

Admiral B. R. N. G.'s D E F E N C E,

As presented by him to the Court, on
board his Majesty's Ship *St. George*,
January 18, 1757.

GENTLEMEN,

WHEN I consider that the Charge exhibited against me is of so criminal a Nature, so copious in its Circumstances, and depends on such a Multiplicity of Facts, I cannot but be very sensible of the Inconvenience I labour under, in being by the Practice of Courts Martial denied the Aid of Council on this Occasion; and this the rather as I am so little versed in the Method of Defence; having, during the Course of so long a Service, never yet been reduced to the Necessity of studying it.—What I shall, therefore, now lay before this Court, will have nothing more than plain Truth to support it—An Advocate altogether sufficient, where the Candour and Capacity of my Judges will, I am persuaded, supply any Defects and Omissions which may proceed from my Inadvertency or Inexperience.

It is my Misfortune, to have laboured under the Disadvantage of a popular, and almost national Prejudice.—For what Reasons this Spirit has been raised, and by what Means propagated, is not the

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Business of this Court to determine : but I have the Satisfaction to find the Time arrived, when I have an Opportunity of approving my Innocence before Judges, whose Integrity is above Corruption, and when my Prosecutors are Persons (for such indeed are the present) who desire nothing more than equal and impartial Justice, and stand indifferent to my Condemnation or Acquittal. By this means I am at once secured from being borne down by popular Clamour, or crushed beneath the Weight of an overbearing Power.

It has been said, and indeed very industriously echoed through the whole Kingdom,---That the Loss of *St. Philip's Castle* was solely owing to my Misconduct ; and that *Minorca* might have been relieved, if I had done my Duty.---As this national Calamity has been urged in order to excite a national Reproach against me, I must beg Leave, in the first Place, to refute this Aspersion ; and should this Part of the Accusation be once clearly answered, and the Prejudice removed, certain I am, the Charge of personal Cowardice in the Action will soon vanish ; for I am confident, had it not been convenient, nay I may say necessary, for some Persons to shelter themselves from the former Part of the Charge, no Man living would ever have thought of calling upon me, for a Justification with respect to the latter.

It may seem somewhat singular, that being accused of two Offences, one whereof is capital, the other not, I should appear more solicitous to acquit myself of that which is only a Misdemeanour, than of that which directly affects my Life : but how little regard soever, I may be represented, to have had for my Honour, permit me to say, I still retain so just a Sense of it's Value, as to prefer Death to the Disgrace that ought to attend the Author of so inglorious a Calamity to his Country.

If then, I can acquit myself of this Imputation (which I am confident I can) I shall with Spirit proceed to my Defence against the Charge of Cowardice, and treat it with the Contempt it deserves. ---One Favour I have to beg of the Court, that the two Charges may be kept distinct, and by no Means blended together, as the Fate of *Minorca* did not at all depend upon this Backwardness (as it is called) in Time of Action.

The first, and what I think the principal Part of my Defence, consists in satisfying this Court,--- That I did the utmost in my Power to relieve *Minorca*:---if in the Course of this, I should happen, from the Necessity of Self-defence, to glance some blame upon others, I hope to stand excused; especially as my Innocence, in many respects, is so intimately connected with their Neglect, that a Vindication of the one, must necessarily enforce an Exposition of the other: a hard Necessity, I must confess, and imposed upon me much against my Inclination; since no Man in my Situation would wish to contend with such potent Adversaries. I desire not to become an Accuser: but if the Loss of *Minorca* must be imputed, either to me, or those who sent me on the Expedition, they who have so falsely fixed the Imputation on me, in order to protect themselves, can with little Shew of Justice complain of my retorting a Charge so unjustly applied to me.---But to proceed.

In order to determine, whether I did my utmost on this Occasion, I apprehend the Consideration of what I could do, should be previous to any Determination of what I ought to have done; and give me Leave to lay it down as an undeniable Fact, and which I shall prove, That the *French Fleet* was superior in the Size of their Ships, Weight of Metal, and Number of Men, besides their Advan-

tage in Point of Sailing; which enabled them to fight, or avoid fighting, as best suited their Purposes. Though this Fact is now so notorious, yet permit me to observe, that the contrary was with an uncommon Strain of Industry and Confidence asserted; nor indeed am I surprized at it's gaining an almost universal Credit, when the *Gazette*, a Paper supposed to be published by Authority, was prostituted to spread a false List of the Strength of both the Fleets among the People, not only by undervaluing the Enemy's Force, of which it is possible the Writer might be ignorant, but by overrating mine, in which it is impossible he should be innocent.

I do not plead the Superiority of the Enemy as a Reason for not attacking them, but only why such an Attempt might not only possibly, but most probably be unsuccessful; since it is evident that notwithstanding my previous Information of their Strength, I did not hesitate to attack, and do the utmost in my Power to defeat them. And I have the rather been induced, to particularize this Circumstance, because you will find, by a Letter to me from the Admiralty—That the only Reason pretended for the Dismission from my Command, was retreating from an inferior Force.

Now instead of my retreating from an inferior Force, that a superior Force retreated from me, when the Fleet was unable to pursue, I shall manifest beyond all contradiction, and cannot help observing, that perhaps I am the first Instance of a Commander in Chief, whose Disgrace proceeded from so unfortunate a Mistake.

I would ask, with what View or Intention I was sent out on this Expedition?—If it be answered to protect or relieve *Minorca*, which is the seeming Language of my Instructions.—I would again ask,
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Did those who sent me, apprehend that *Minorca* could be invaded before my Arrival, and the Descent covered by a superior Squadron, when they sent me out with so inadequate a Force?—If they did, their Conduct is unjustifiable;—if they did not, their Ignorance is inexcusable.

This I presume is sufficient to unravel the political Secret—Why the Enemy's Force has been so industriously lessened, and mine so extravagantly magnified; when at the same Time it is known to almost every Man in the Squadron I commanded, that it consisted of several of the worst conditioned Ships, and mostly the worst manned of any perhaps in his Majesty's Navy.

I think I may venture to affirm, that it was not foreseen or expected that the Fleet in the *Mediterranean* would come to Action; since it will appear from my very Instructions themselves, that no such Service was ever supposed probable, or that the Enemy could have a Force sufficient to venture an Engagement at Sea—In these you will find, I am ordered—If on my Arrival at *Gibraltar*, the *French* Fleet should have passed out of the *Mediterranean*, to send a Detachment under the Command of Admiral *West* after them to *North America*.—Can it be meant that I was to detach eight Ships out of the ten? as no less would have been necessary to insure Success, and make the superior Force ordered in my Instructions.—Again, I am ordered—when arrived at *Minorca*, to assist the Garrison with Lord *Robert Bértie's* Regiment, and as many Gunners and Men as I could spare out of the Fleet.

Does not this suppose the Sea to be open, and the Fleet unopposed? or the Order would be absurd; for how could it be expected I should disarm the Squadron, by sending Part of its proper Complement

plement (which please to observe the Fuzileers were) on Shore, when the whole was too little to secure Success at Sea?—I am further Ordered—If *Minorca* was not attacked, to block up *Toulon*—What! block up a superior Fleet with an inferior!—And all this Service you will please to observe was expected from a Fleet, which when collected, was still inferior to the Enemy's: I say collected, because as the Island was actually attacked, it is indisputable the Ships, then at *Mabon*, might have been blocked up, and taken or destroyed by the Enemy, as they did not quit the Harbour until two Days after the *French* had arrived off the Island, and part of their Troops were landed, and in the Neighbourhood of *Mabon*.

Does not all this evince, that fighting was the least intentional Part of my Instructions? And if the Admiralty had expected an Engagement, is it not to be supposed they would have sent more Ships, as so many fine Ships manned, or nearly so, then lay at *Spithead*, and would have afforded me the usual and necessary Supply of Fireships, Tenders, Hospital and Store-Ships, instead of avoiding any Answer to my Request, that a Frigate might be added to my Squadron, to repeat Signals in case of meeting with the Enemy before I joined the Ships then in the *Mediterranean*?—But indeed I was positively assured before my Departure, from the highest Naval Authority, that the Enemy could not fit out more than six or seven Ships of the Line at most.

Under these unfavourable Circumstances, without such Intelligence of the Enemy's Force as could enable me to judge of it, determined to do my Duty, I took the Command of the Squadron, such as it was; many Ships foul, and one in particular, *viz.* the *Intrepid*, reported unfit for the Voyage. With these I proceeded as expeditiously as possible; and
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though it has been maliciously given out (yet not even pretended in my Charge) that I loitered at *Portsmouth*, I shall produce several Letters and Orders, which will incontestably prove that I departed thence the very first Moment I was enabled to sail.—Why the Admiralty postponed this Service to others, made me wait, and manned my Ships the last, I must leave them to account for.

When arrived at *Gibraltar*, I received certain Intelligence that a Descent was actually made on the Island of *Minorca*, that the Harbour and the whole Island was in the Enemy's Possession, excepting the Castle of *St. Philip*, which was then besieged by a very considerable Force at Land, and the Siege covered by a strong Squadron at Sea superior to mine. Every Person there concluded the Place lost, and all Relief impracticable; and the Engineers were of Opinion, that it was absolutely impossible to land Men, even if the Sea had been open, and the Enemy had erected Batteries on the two Shores near the Entrance of the Harbour.

I must own there appeared to me no great Probability of preserving *Minorca* at this Time; but, however, have the Satisfaction to find that the Ministers at home, for once at least, agreed in Opinion with me, since the Moment Intelligence came that the *Toulon* Fleet was sailed, and the Troops landed upon the Island, there was not a Man who did not despair of *Minorca*.

Hence I dispatched an Express with this Account, which was at first hushed up in Silence, afterwards represented (without producing it) as the desponding Letter of a Man who would not fight.—What Authority these Gentlemen had for this invidious Prophecy, I am yet at a Loss to account for, unless a declared Resolution in its Contents to meet the *French* Fleet may be deemed a justifiable
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Foundation for it;---but the Letter has been laid before the Court.

It has also been given out, no Doubt with the same uniform malicious Intention, to defame every Circumstance of my Conduct, that I made unnecessary Delays at *Gibraltar*, and this supposed to be solely on the account of watering.—I presume the Propriety, and indeed the Necessity will readily appear of furnishing the Fleet with a Sufficiency of Water and Provisions, which was proceeding upon an Expedition where the only Port capable of supplying it's Wants was known to be in the Enemy's Possession, and who by Intelligence appeared to be well supplied with all Kinds of Necessaries: this was not the Cause, but Effect of my Stay at this Place, and transacted during the Execution of other Affairs directed by my Instructions.—I arrived at *Gibraltar* the second of *May* Afternoon, and sailed thence the eighth in the Morning, a Space of five Days only; in which Time I communicated my Orders to the Governor relating to a Detachment from the Garrison, waited the Result of a Council of War held the 4th, then solicited a Reinforcement to supply the Deficiency of Men in Mr. *Edgecumbe's* Squadron, occasioned by the Loss of those who had been disembarked for the Succour of *St. Philip's*. A List of this Reinforcement I received the 6th, and shipped them the 7th, which Day the *Experiment* arrived, the *Portland* and *Dolphin* two Days before: these with the rest of Mr. *Edgecumbe's* Squadron, were mann'd and equipped in the best Manner I was able; and without waiting to fully water the Ships, I sailed in the Morning of the 8th, though the Wind was Easterly, and arrived off *Minorca* the 19th.

Thus far, I will presume, upon my Innocence, but why (it may be asked) was not *Minorca* at this Time relieved? I answer, because I was not sent
Time

Time enough to prevent the Enemy's landing, and that when I was sent, I was not strong enough to beat the Enemy's Fleet, and raise the Siege. Let others answer why I came so late, and why I came so weak, with a Force not calculated for such an Expedition.—But after the Engagement, it may be said, I might have re-attacked the Enemy, and landed the Succours :—I might, indeed, have done the first, with a Certainty almost of being defeated; I could not have done the last, though I had been victorious. Had I been defeated, what Refuge would have been left for the shattered Fleet?—what Security for *Gibraltar*; which must have been exposed to the Hazard of a sudden Siege, without a single Ship to defend it? and which Place was equally recommended to my Protection.

But it seems (such is the Fatality attending my Conduct) that I am even held blamable for calling a Council of War in so critical a Conjuncture; yet, when is Advice so necessary as on such an Occasion? I admit where Orders are positive to fight at all Events, and at all Hazards whatever, it is criminal to deliberate: but was I under such Orders?—let my Instructions speak for me.—Is a Commander expected to fight in all Situations, and under all Disadvantages? surely all Extremes are culpable; and where nothing is to be gained, and all may be lost, Fighting becomes Presumptuousness, Rashness or Phrenzy.—I, therefore, beg Leave to recommend to your particular Consideration, the different Situation of the two Fleets at this Time; and shall refer you to the Minutes of a Council of War, held on board the *Ramillies* the 24th of May, already laid before the Court; and when you shall have duly weighed the Opinion of this Council, the Unanimity of its Members, and their Characters, what Apprehensions can I have of my Behaviour,

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viour, on this Occasion, falling under your Censure, since it would necessarily imply their Guilt.

What I have now offered, being verified by the Testimony of the Witnesses, will, I flatter myself, be abundantly sufficient to exculpate me from the first general Charge; and that the Court will be of Opinion,—That I never retreated from the Island 'till it was impracticable to make any further Attempt; and,—that the Place was not lost by me, who was too weak to save it; but by those who might have sent double the Force two Months earlier, and neglected it.

Yet permit me to complain, that in order to render me criminal in the Eyes of the People, the same authorized Paper beforementioned, was likewise prostituted to mangle and curtail my Letter to the *Admiralty* on this Occasion, and subscribed my Name to my own Defamation.

I shall now proceed to the second Part of the Charge against me—that of Cowardice—and tho' I have already taken up so much of your Time, shall make no Apology for your further Patience, as I am convinced, Gentlemen, your Impartiality will think no Indulgence of this kind too much, where the Life, and, what is still much more, the Honour of an Officer of my Rank in the Service is at Stake: I shall forbear to point out the Consequences to the Service in general, not to furnish even my Enemies with an Opportunity of construing it an Endeavour to bespeak a Partiality.

The 12th Article of War, is that, which provides a proper Punishment for Cowardice, and runs in the following Words.— “ Every Person in the
 “ Fleet, who thro' Cowardice, Negligence or Dis-
 “ affection, shall in Time of Action withdraw, or
 “ keep back, or not come into the Fight or En-
 “ gagement, or shall not do his utmost to take or
 “ destroy every Ship which it shall be his Duty to
 “ engage;

“ engage; and to assist and relieve all and every
 “ of his Majesty’s Ships, or those of his Allies,
 “ which it shall be his Duty to assist and relieve,
 “ every such Person so offending and being con-
 “ victed thereof by the Sentence of a Court Mar-
 “ tial, shall suffer Death.”

I would first beg leave to observe, that in order to bring any Person within the Peril of this Article, he must be convicted of Cowardice, Negligence or Disaffection; for tho’ he should fail to engage or assist, &c. unless this failure apparently proceeds from one of these Causes, He is not Guilty.—Negligence cannot be taken in so large a Sense, as to mean every sort of Neglect and Omission, but such gross Negligence only, as evidently indicates Cowardice or Disaffection, such and such only can be Penal, and was intended to be made Capital, any other Construction might expose the bravest Man that ever commanded to the severest Penalties, since a single Error in Judgment might render him liable to the most capital Punishment.

By this Rule, I must desire, my Conduct may be judged; and if my Intentions appear to be good, and my Courage clear, I ought to stand Acquitted by all good Men, even though my Abilities should be deemed Deficient.

And I must beg leave to observe, that this Article of my Charge can only relate to my Personal Courage and Conduct during the Action, and therefore any Disposition (admitting it could be corrected) can only be accounted an Error of Judgment.—I do not mention this to avoid entering into that part of my Conduct, since I flatter myself that I shall be able to shew, considering the Circumstances, several Dispositions of the two Fleets, and unavoidable Accidents, that the whole as far as could depend upon me, was conducted with that Propriety and Naval Military Skill which is

requisite in a Commander in Chief. — But the Court will please to remember, this is no part of the Charge against me.

Before I proceed to an Account of the Action, I must beg Leave to offer two Observations, and desire the Court never to lose Sight of them.

First, That Success must depend upon Execution as well as Disposition; and that no Commander of a particular Ship has a right to deviate from the established Discipline and Rules of the Navy, contained in the fighting Instructions, and founded on Experience and just Observation; because if inferior Officers may judge for themselves, there is an End of all Discipline, and any Deviation from Orders, must tend to disturb and disconcert the Admiral's Plan, and throw the whole Fleet into Confusion.

Secondly, That as the *French* Fleet, superior in Force, waited the Attack, there was no Reason to apprehend they would avoid the Engagement; and therefore no Occasion to hazard a Disorder by crowding too much Sail, and making the Attack with Precipitation, contrary to the invariable Practice of every prudent, good or great Officer heretofore in similar Cases.

I shall now proceed, in as concise a Manner as I possibly can, to lay before the Court a faithful Narrative of the material Transactions of his Majesty's Fleet under my Command off the Island of *Minorca*, from the 19th of *May* 1756, to the 24th, both Days inclusive.

In the Morning at Day-light, on *Wednesday* the 19th of *May*, I arrived with the Fleet off the Island of *Minorca*; and was then about three or four Leagues distant from the Shore, the Wind fresh northerly.

Several Ships being at that Time considerably astern, in particular the *Defiance*, that had been separated

parated from the Fleet, on *Monday Evening* before, by not being able to weather the Island of *Cabrera*, when the rest of the Fleet did ; I made the Signals for the Captains of the *Phoenix*, *Chesterfield* and *Dolphin* ; and sent these three Frigates ahead of the Fleet, under the Direction of Captain *Hervey* of the *Phoenix* ; to whom at the same Time I gave a Letter for General *Blakeney* ; which Letter, though it could not be delivered, I shall beg Leave to read, together with a Copy of my Orders to Captain *Hervey*.

Ramillies off Minorca, 19th May, 1756.

S I R,

I SEND send you this by Capt. *Hervey*, of his Majesty's Ship *Phoenix*, who has my Orders to convey it to you, if possible, together with the enclosed Packet, which he received at *Leghorn*.

I am extremely concerned to find that Capt. *Edgecumbe* has been obliged to retire to *Gibraltar* with the Ships under his command, and that the French are landed, and *St. Philip's Castle* is invested. As I flatter myself, had I fortunately been more timely in the Mediterranean, that I should have been able to have prevented the Enemy's getting a Footing on the Island of *Minorca*.

I am to acquaint you, that General *Stuart*, Lord *Effingham*, and Colonel *Cornwallis*, with about thirty Officers, and some Recruits belonging to the different Regiments now in Garrison with you, are on board the Ships of the Squadron ; and shall be glad to know, by the return of the Officer, what Place you will think proper to have them landed at.

The Royal Regiment of English Fuzilliers, commanded by Lord Robert *Bertie*, is likewise on board the Squadron, destined, agreeable to my Orders, to serve on board the Fleet in the Mediterranean, unless it should be thought necessary, upon Consultation with
you,

you, to land the Regiment for the Defence of Minorca : But I must also inform you, should the Fusiliers be landed, as they are Part of the Ship's Complements, the Marines having been ordered by the Lords Commissioners of the Admiralty on board of other Ships at Portsmouth, to make room for them, that it will disable the Squadron from acting against that of the Enemy, which I am informed is cruising off the Island. However, I shall gladly embrace every Opportunity of promoting his Majesty's Service in the most effectual Manner ; and shall assist you, distress the Enemy, and defeat their Designs to the utmost of my Power.

Please to favour me with Information how I can be most effectually of Service to you and the Garrison ; and believe me to be, with great Truth and Esteem,

S I R,

Your most obedient

Lieut. General Blakeney.

humble Servant,

J. B Y N G.

By the Hon. John Byng, Esq; Admiral of the Blue Squadron, and Commander in Chief of his Majesty's Ships and Vessels employed in the Mediterranean.

YOU are hereby required and directed to proceed with his Majesty's Ship under your Command, together with the Chesterfield and Dolphin, (whose Captains have my Orders to put themselves under your Direction) off the Harbour's Mouth of Mahon, taking Care to make the Signals to me according to those you will receive herewith, and to use your utmost Endeavours to land the Packet for General Blakeney that accompanies this ; as also to bring or send me his Answer thereto ; you are to range the Coast along as near as possibly you can with Safety to his Majesty's Ships, from the Lair of Mahon to Cape Mola, and endeavour

your to make what Observations you can, of any Batteries or Posts the Enemy may be possessed of along the Shore, that may intercept the Communication between the Castle of St. Philip and his Majesty's Fleet; and you are also to employ the Ships with you, as you shall see most necessary to answer these Purposes, as well as to be very diligent in endeavouring to intercept any of the small Craft of the Island, which you are immediately to send to me, together with all the People that shall be taken in them, for my having the earliest Intelligence of the Enemy's Situation on the Island; for which this shall be your Order.

Dated on board his Majesty's Ship *Ramillies*, off *Minorca*, this 19th May 1756.

J. BYNG.

To

The Hon. Augustus John Hervey,
Commander of his Majesty's Ship
Phoenix.

By Command of the Admiral,

George Lawrance.

For all the Purposes contained in this Order, and some others, I appointed Signals for the Captains of these Frigates to inform me of their Observations, without the Trouble and Delay of sending Boats.

About half an Hour after Nine, the Frigates having sailed ahead of the Fleet with a fresh Gale, and doubled the Laire of *Makon*, fell into light Airs of Wind and Calms, under the Land.

About half an Hour after Ten,

The Fleet having also got round the Laire of *Makon* with a fresh Gale, fell into light Airs of
Wind

Wind and Calms ; and with the Frigates about a Mile ahead, continued to stand on towards St. *Philip's* Castle, and the Harbour's Mouth, with what Airs of Wind offered, until within the Distance of about three or four Miles.

At this Time we could see there was a frequent Exchange of Shot and Shells between the Garrison and the Enemy, who were firing upon the Castle, from several Batteries to the westward of the Castle, and to the eastward towards Cape *Mola*.

While the Fleet was standing on towards the Castle, Captain *Hervey* agreeable to my Directions made a private Signal to Captain *Scrope* of the *Dolphin*, who was left with the Garrison, and had kept the *Dolphin's* Barge with him, in hopes that Captain *Scrope* would come off to the Fleet, if it was possible.

It may be proper to explain, that each Ship in Mr. *Edgumbe's* Squadron had a distinguishing Signal to give Notice on her Approach, that it was such a Ship arrived ; Capt. *Hervey* made the distinguishing Signal for the *Phoenix*, to give Notice that it was the *Phoenix* approaching ; and at the same Time threw out a white Pendant at his Mizen Top Mast Head, the Signal to speak with Capt. *Scrope*, agreeable to the Signals given out by Mr. *Edgumbe*.

The Frigates had made the Signal for seeing Ships in the south-east Quarter ; but between eleven and twelve, they were plainly discovered to be the Enemy's Fleet, of which we counted sixteen Sail, at the Distance of about four or five Leagues, standing towards us.

The Enemy at this Time were undoubtedly Masters of the Harbour ; the light Airs of Wind off the Land, and Calms, made it very uncertain what Time any of the Frigates could get near enough to the Castle to make proper Observations ; and I apprehend

prehend it needless to explain to my Judges the Consequence of a Frigate's approaching Batteries, or rather as many Guns as the Enemy are pleased to bring to bear, without Wind to keep her under Command. A Swell made the *Phoenix* on this Occasion in danger of being on Shore upon the Laire, and obliged Capt. *Hervey* to get his own, and other Ship's Boats ahead, to tow him off.

No Boat coming off from the Garrison, made it probable that no Boat could come off.

As the Enemy appeared to have Batteries on both Sides of the Castle, it was very improbable that the Frigates could be able to cover the Passage of a Boat, with a Letter to the Sally-Port, much less the Passage of Boats carrying Troops.

Yet, supposing the Frigates had been sufficient, the Nearness of the Enemy's Fleet standing towards us, rendered it, as I conceive, improper, upon the Brink of an Action, to deprive the Fleet of the Use and Assistance of any of the Frigates; but more especially of their Men, who were necessary to strengthen such Ships of the Line, as were most sickly, or badly manned.

Lord *Robert Bertie's* Regiment, and the Detachment of about two hundred and seventy Men from the Garrison of *Gibraltar*, made up the Ship's Complements, and served in the Room of Marines.

Lord *Robert Bertie's* Regiment was intended to serve as Marines, as evidently appears by the Order to me from the Board of *Admiralty*, directing the Fuziliers to serve in the Fleet, unless upon Consultation with the Governor, it should be thought necessary to land them: And likewise by their Lordship's Order to put the Marines on board other Ships at *Spithead*; therefore, landing them at this Juncture, had it been practicable, would, as I apprehend, have rendered the Fleet entirely unfit for Action.

All the Reinforcement then for the Garrison, that could possibly be spared from the Fleet, was about one hundred Officers and Recruits, which was, as it appeared to me, a very inconsiderable Reinforcement, and an insufficient reason for losing Time, and delaying to attack the Enemy's Fleet when in sight; more especially as there was very little, or rather no Probability of Success, from the Attempt to land them; and as those very Recruits were in a great Measure necessary to a Fleet entering into Action, badly manned in general, and with three hundred and seventy one Men sick on board the Line of Battle Ships, as may be seen by their weekly Accounts dated the 17th of *May*, which has been laid before the Court.

Thus circumstanced, I conceive, no prudent Officer would have hesitated to conclude, that it was improper, in every respect, to weaken his Majesty's Fleet, by landing Men before the Action, had it been practicable; and that the most immediately necessary Step was to attack the Enemy's Fleet, and try the Fortune of a Battle.

At half an Hour past Eleven;

I therefore made the Signal for calling in the Frigates, bore away for the Enemy, and made the general Signal to chase, continuing to stand towards the Enemy the remaining Part of that Day, with light Airs of Wind and Calms.

As Boats could easily pass from Ship to Ship, I made a Distribution of the Seamen from the Frigates, to strengthen the Line of Battle Ships, viz.

From the <i>Phoenix</i>	30 Men to the <i>Revenge</i> .
	20 to the <i>Deptford</i> .
From the <i>Experiment</i>	40 to the <i>Captain</i> .
	20 to the <i>Lancaster</i> .
From the <i>Dolphin</i>	20 to the <i>Intrepid</i> .
	20 to the <i>Defiance</i> .
	17 to the <i>Portland</i>

And

And Captain *Hervey* acquainting me that the *Phoenix* long before had been reported at home unfit for Service; that he had sufficient Materials on board to fit her as well as the Time and Situation would permit as a Fireship, and could do it without prejudicing her as a Frigate afterwards, if not made Use of; I gave him Orders to do it, and ordered the Schooner to attend and take out her Men, in case of her being ordered on Service as a Fireship.

About Six in the Afternoon,

A Breeze of Wind sprung up about South-west and by South, and both Fleets then about four Leagues distant continued to stand towards each other in the order of Battle.

About Seven,

The two Fleets were distant about two Leagues from each other when the Enemy tacked; the *British* Fleet at that Time stemming nearly for the Enemy's Van, who of course must have weathered us if both had stood on; I also hauled down the Signal for the Line, made the Signal to tack, and tacked nearly about the same Time.

The Enemy's Reasons for tacking were probably an Endeavour to preserve the Weather-gage, and as Night was near at hand, to avoid the Confusion of a Night Action, which no doubt would have ensued if both Fleets had continued to stand on.

It appeared to me also proper to avoid a Night Action, as from many Circumstances there was no Probability that the Enemy would decline coming to Action in the Day: and considering the Weather-gage of Consequence, if an Enemy has Fireships, which may occasion Disorder in a Fleet to leeward, even if they should fail in doing Execu-

tion, and having no Reason to believe that the Enemy had not Fireships, I judged it most proper to stand in shore that Night, and take the Advantage of the Wind, usually off the Land in the Summer Season, the latter Part of the Nights and Mornings, to gain the Wind of the Enemy against the next Day, and therefore stood in shore until about half an Hour after Eleven, or near Twelve, and off the remaining Part of the Night.

Thursday the 20th,

In the Morning, the Wind about South West by South, a thick Haze prevented our seeing the Enemy's Fleet, and made it uncertain in what Quarter it was ; but perceiving two *Tartans* with each a blue Flag at his Mast-head, in Appearance endeavouring to join the Fleet, as if they had mistook us for the Enemy, I made the Signal for the *Princess Louisa* to chase one in Hopes of procuring Intelligence, and made the Signal for the Rear-Admiral to send Ships to chase the other, who sent the *Captain* and *Defiance*.

Chasing drew these Ships at a considerable Distance from the Fleet, the *Captain* and *Defiance* two or three Miles to leeward, and the *Princess Louisa* four or five Miles upon the lee Quarter, or rather a-stern ; wherfore I was apprehensive of their being separated from the Fleet, and to prevent such a Separation, thought it necessary to tack about a quarter after Six, and stand towards them under an easy sail. About this Time the *Princess Louisa* made the Signal for seeing ten Sail in the North West Quarter, which for some Time I was inclined to believe was the Enemy's Fleet, that might have tacked to the North Westward again some Time in the Beginning of the Night.

The *Defiance* took the *Tartan* she chased, which had upwards of a hundred Soldiers on board with
their

their Officers, part of six hundred embarked the Day before from the Enemy's Camp at St. Philip's, to reinforce their Fleet.

At Seven,

Or near about Seven, a Fleet was discovered in the South East Quarter, which proved to be the Enemy, and I made the Signal for calling in all the chasing Ships, which the *Princess Louisa* did not immediately observe, but continued to chase; I fired several Guns from Time to Time, until she did observe the Signal, and made the *Defiance's* Signal, who continued to lay by the *Tartan Prize*, taking out the Prisoners.

At Ten,

The chasing Ships appearing to be in a fair Way to rejoin the Fleet, I made the Signal to tack, and tacked to the South Eastward towards the Enemy.

At a Quarter after Ten,

I made the Signal for the Line of Battle a-head, at the Distance of two Cables Length asunder, and about half an Hour past Ten squared my Main Top Sail, that the Ships stationed a-head of me might the sooner get into their Stations.

About Ten Minutes after Eleven,

I made the Signal for the Line of Battle a-head, at the Distance of half a Cables Length asunder, and immediately after the Ships stationed a-head of me having got into their Stations, I made the Signal to fill, and stand on, set Topgallant Sails, and crowded Sail to gain the Wind of the Enemy, who at this Time were standing to the North Westward in a Line of Battle a head, and also crowding Sail.

At

At Half an Hour past Twelve,

The Wind then favouring us a Point or more, the Enemy took in their Top Gallant-Sails, and their Van bore away, and formed their Line to leeward; probably because their whole Line not being able to weather us, they otherwise would have run the Risque of being separated, and their Line cut by our Line.

About three Quarters after Twelve,

Our Van headed the Enemy about the Distance of two Miles to windward, and as soon as I headed them I kept away, the Wind nearly upon the Beam. The Enemy were twelve Ships in a strait Line of Battle a-head, and five Frigates to leeward, at this Time laying with their Main Top Sails Square from the Wind also, and under Steerage Way.

At One,

Or a little after, the chasing Ships got into their Stations, and our Line appeared to be regularly close, and well formed, the Enemy's Line more extended than ours.

Just before tacking I hauled up the Main Sail, and took in Top Gallant Sails, apprehending a Crowd of Sail inconvenient, and improper to preserve Order, or to engage with, and unnecessary because the Enemy appeared to be waiting for us under Top-Sails, their Main Top-Sails square.

At half an Hour after One,

Our Van then stretched a little beyond the Enemy's Rear, to give room for leading down upon them, who having their Main Top-Sails Square, could not have fresh Way; I made the Signal for the Fleet to tack altogether; and soon after

after we tacked in that Manner, and kept in a Line on the other Tack.

At Two,

I made the Signal to lead to Starboard, with one Gun, and soon after another Gun, to put the leading Captain in mind of his Instructions, who I perceived did not steer away with the Enemy's leading Ship, agreeable to the 19th Article of the fighting Instructions, which directs.

“ If the Admiral and his Fleet have the Wind of the Enemy, and they have stretched themselves in a Line of Battle, the Van of the Admiral's Fleet is to steer with the Van of the Enemy's, and there to engage them.”

About ten Minutes after Two,

Observing that the leading Ship did not steer away sufficiently, I bore away about two Points more than the Ships a-head of me ; the Ships next a-head of me, bore down soon after into their Stations a-head.

Captain *Hervey*, of the *Phoenix*, appointed to repeat my Signals, observing that the *Defiance*, the leading Ship, did not comply properly with the Signal to lead to Starboard, repeated it several Times, in obedience to an Article in his additional fighting Instructions.

(*Viz.*) “ If the Captains of the Frigates, which are appointed to repeat Signals, find the Signal not observed, they are to fire Guns until it is taken notice of.”

About twenty Minutes after Two,

It appeared to me, that the leading Ship did not yet steer down sufficiently, and by that Means, was drawing the Van a-breast of the Enemy's Van, and altering the Disposition which I had made for attacking

attacking the Enemy, by steering down a slanting Course to avoid being raked; I therefore thought it necessary, to make the Signal to engage, to bring on the Action, and to empower the Ships to fire respectively as they got within a proper Distance.

Upon the Signal to engage, the leading Ship bore down more, as did the Van in general; the *Intrepid* appeared to bear right down before the Wind, by which means she was exposed to be raked, and was disabled by the Time she could begin to fire or very soon after; I also steered away more, continuing the Signal for the Line of Battle a-head up, and with the Ships next a-head of me preserved a Line, and steered a proper slanting Course as the Circumstances appeared to me, to fall in with and engage the Enemy, who I observed had head-way.

The whole Van appeared to bear down more than the Rear Division, which I imagine must have been owing to some Ships in the Van being extended at greater Distances from each other than in the Rear, and of consequence being farther a-head with regard to the Enemy's Line, which laid them under a Necessity of taking that Method to get into Action with the Enemy.

At half an Hour after Two,

The Enemy began to fire, all but the two sternmost Ships, who reserved their Fire some little Time longer, but their Shot in general fell short throughout their Line.

About this Time I made the Signal for the *Deptford* to quit the Line, apprehending as she was one of the weakest Ships, that she would be of the most effectual Service as directed by that Signal. *The first Article of the additional fighting Instructions, as given out to the Fleet by me at the Beginning of the Expedition.*

(*Viz.*)

(*Viz.*) “ In Case of meeting with a Squadron
 “ of the Enemy’s Ships, that may be less in
 “ Number than the Squadron under my Com-
 “ mand; if I would have any of the smallest Ships
 “ quit the Line, that those of the greatest Force
 “ may be opposed to the Enemy; I will put
 “ abroad the Signal for speaking with the Captain
 “ of any such Ship or Ships, as I would have leave
 “ the Line, and hoist a Flag striped yellow and
 “ white on the Flag-staff at the Fore Top Mast
 “ Head: Then the next Ships are to close up the
 “ Line; and those that have quitted the Line are
 “ to hold themselves in readiness to assist any Ship
 “ that may be disabled or hard press’d, or to take
 “ her Station if she is obliged to go out of the
 “ Line: In which Case the strongest Ship that is
 “ withdrawn from the Line, is strictly enjoined to
 “ supply the Place, and fill up the Vacancy.”

Soon after the Enemy began to fire, their Shot reached the *Ramillies*, and passed through her Sails and Rigging; but I continued going down and reserving my Fire until I could get close to the Enemy, and I believe declared such my Intention at that Time.

About ten Minutes before Three,

When the Enemy’s Shot passed over the *Ramillies*, and through her Sails and Rigging, and several hulled her, some of the Seamen, as I have been informed since, out of impatience at receiving the Enemy’s Fire without returning it, began to fire without Orders, as the Guns were kept pointed forwards on the Enemy in going down; others followed the Example, on a Supposition that Orders were given.

I was displeased at firing so soon, contrary to my Intention, and I think expressed my Dissatisfaction; but being then within about half a Mile of the

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Enemy,

Enemy, with a fine Breeze; and apprehending that a very little Time would bring us down, and that it might prevent the Enemy from deliberately taking aim, and disabling the Ship before coming to close Action, I permitted the Fire to continue.

In the Time of firing, I think it was Lord Robert Bertie, who first observed it through the Smoke, and acquainted me, that one of our own Ships was close upon the Lee Bow, and that there was danger of firing into her, I immediately gave orders not to fire without seeing the Enemy's Colours, and to hale up the Fore Sail; and finding one Ship upon the Lee Bow, and another right a-head, both so close to us, with one or both Top-Sails a-back; I was under a Necessity without Hesitation of luffing the Ship up so as to back the Top-Sails and avoid being immediately on Board of them.

And apprehending the Ships a-stern, might run on Board of us as we lay in a Cluster, partly hid by the Smoke; I also immediately made the Signal for the Fleet to brace to, the Rear to brace to first, and braced the Fore Top Sail sharp a-back, to back the *Ramillies* a-stern, and cast her Head to Leeward of the *Princess Louisa* and *Trident*, in order for the more immediately making Sail a-head again.

On Account of the Danger of firing upon our own Ships, all firing ceased at this Time, on Board the *Ramillies*, after about four or five Broadfides.

No Signal being appointed for the Rear only to brace to, laid me under a Necessity, on this Emergency of making the general Signal to brace to, the Ships in the Rear to brace to first; but this Signal was up so short a Time, that the Rear Admiral who according to the established Practice of the Navy, repeated all other Signals, could not if he saw it, have time to repeat this, before it was
haled

hated down again, nor had Captain *Hervey* in the *Phoenix*, who was appointed to repeat my Signals, time to repeat it; neither did any Ship a-head of me not brought to before, bring to in obedience to it; because, apprehensive that the Ships a-head of me might bring to in Consequence of this Signal, and intending that the Ships might fill which by bringing to had obliged me to lay a-back, I was very solicitous to have the Signal made as soon as possible for the Fleet to fill and stand on, the Ships in the Van to fill first: And therefore,

About fifteen or twenty Minutes after Three,

The Signal to brace to was haled down, while the *Ramillies's* Top Sails were a-back, and the Signal made for the Fleet to fill and stand on, the Ships in the Van to fill first. This was as soon as it could possibly be made after the Signal to brace to, and did not exceed six or eight Minutes.

And having discovered that the Stop was occasioned by the *Revenge*, and the Ships next a-head of me, bringing to or backing, instead of passing the *Intrepide*; who at this Time appeared unable to carry Sail, having lost her Fore Top Mast, and her Fore Sail a-back; and that by this Means there was a Separation between the Rear Admiral's Division and mine, I made the Signal for the Rear to make more Sail, and close the Line, almost at the same Time with the Signal to fill, that these Ships might make Sail again and pass the *Intrepide*.

The Smoke occasioned by the Fire from the Ships upon the Lee Bow, as well as what had proceeded from the *Ramillies*, obstructed my seeing the Enemy's Conduct and Situation, about the Time of laying the Top Sails a-back. But the Smoke being cleared away, I observed that the Enemy were then under Sail, Fore Sail and Top Sails edging down from the Wind, three or four Ships

of their Van going large, and the second Ship from the Rear, which the Fire from the *Ramillies* was principally directed at, going quartering with her Fore Sail, Fore Top Sail, and Fore Top Gallant Sail sett, and her Main Top Sail Yard shot down upon the Cap.

At half an Hour after Three,

When the *Ramillies* was backed a-stern, and her Head cast to Leeward of the *Trident* and *Princess Louisa*, I filled the Top Sails and set the Fore Sail; and observing that the sternmost Ship of the Enemy was separated from their Line, by the Ship a-head of her having bore away, I sent Lieutenant *Hamilton* to Captain *Ward* of the *Culloden* with Orders to make what Sail he could out of the Line, and endeavour to cut her off.

Soon after this, shooting a-head to Leeward of the *Trident* and *Princess Louisa*, who were under their Top Sails, I ordered them to be hailed one after the other, as I shot up with them to make more Sail, which they did; and I immediately set my Main Sail, Jibb and Stay Sails.

About the same Time the *Princess Louisa's* Boat dropt on Board with a Letter from Captain *Noel*, acquainting me that he had lost a Leg, and desiring that an Officer might be sent to command the Ship. I immediately sent Captain *Gough*, then my first Lieutenant, with Directions, in his Way, to carry my Orders to Captain *Anberst* of the *Deptford*, who was attending the *Intrepid* to take her Place in the Line; and I made the *Chesterfield's* Signal to attend and assist the *Intrepid* then fallen a-stern out of her Station in the Line.

About Four,

Observing that the sternmost Ship of the Enemy, had shot up and joined their Line, the *Culloden* then

then abaft the lee Beam of the *Ramillies*, at the Distance of about two Cables Length with Top Gallant Sails fet; I ordered Captain *Ward* to be hailed to get into his Station again, judging it improper, then, to continue my Order for him to pursue the sternmost Ship of the Enemy, after she had rejoined.

The Enemy's Centre and Rear continued stretching a-head in a regular Line, and edging down to rejoin the Ships that had bore away, some of which the *French* Admiral fired several Shot at; and they some Time afterwards haled up and joined him; and I observed that the *French* under Fore Sail and Top Sails very much outfailed us, who had also Main Sail, Jibb, and Stay Sails fet. On this Occasion I could not help expressing my Concern to Capt. *Gardiner*, that I had not a few more Ships to enable me to make the general Signal to chase.

None of the Enemy's Ships appeared unfit for Action, or had any visible Damage in their Masts or Yards, but the Ship that had her Main Top Sail Yard shot down by the Fire from the *Ramillies*.

As they stretched a-head and edged down to rejoin the Ships that had bore away, they exchanged Fire with our Van, but at a very considerable Distance, and their Shot seemed to fall short.

The Rear Admiral had lost his Main Top Sail Yard, and several Ships of the Van appeared too much shattered to be able to pursue the Enemy; besides, the *Intrepid* totally disabled and dropt at a considerable Distance a-stern and to windward of the Fleet, with the *Chesterfield* attending her.

After the Enemy bore away and made sail, as they so much outfailed us, and a considerable Part of the Fleet was unable to pursue, I judged it improper to pursue with Part of the Fleet an Enemy superior at first, and still all of them fit for Action according to all Appearances.

And

And there appeared to me no further Possibility of bringing the Enemy to Action again as they declined it, without I had a sufficient Force and Superiority to enable me to make the general Signal to chase; therefore I stood on with my Division under Courses, Top Sails, Jibb and Stay Sails, until we rejoined the Van Division

And at half an Hour after Five I made the Signal to bring to, and brought to in order to repair the Damages of such Ships as had suffered in the Action.

The Enemy were then upon the lee Bow, distant about six or seven Miles, continuing to stand on to the northward, the Body of them still preserving their Order; and being rejoined by the Ships that had bore away, they seemed to be new forming their Line.

About Six,

Apprehending that the Enemy having observed the Situation of our disabled Ships, might take the Advantage, and tacking make an Attack in their Turn; I made the Signal for the Fleet to fill, and soon after the Signal to tack, and the Ships appointed to lead on the larboard Tack to continue to lead on the starboard Tack, in order to cover the disabled Ships, by placing my own Division that had suffered least in the Action in the Rear, and first opposed to the Enemy if they should make such an Attempt, and likewise prevent a farther Separation from the *Intrepid* and *Chesterfield*, at this Time about two Leagues upon the Weather Quarter of the Fleet.

About Seven,

Observing that few of the headmost Ships were as yet tacked, and that tacking in the Order of Battle would take up much Time, as Night was coming

coming on, and there was no Night Signal provided for Ships that led on the Larboard Tack to continue to lead on the Starboard Tack, I ordered the Signal for the Line to be haled down, continuing the Signal to tack up, that the whole Fleet might be able to tack before dark.

At the Close of Day the Enemy were at the Distance of three or four Leagues to the northward, continuing to stand on.

Soon after the Fleet was on the other Tack, I made the Night Signal to bring to, and the Fleet continued to lay to all Night in the Place of Action.

The 21st,

Moderate Weather, the latter Part light Airs of Wind and Calms, the Wind in the S. W. Quarter. —In the Morning the Enemy were seen in the N. W. Quarter from the Mast Heads of some of the Weathermost Ships. —The Fleet continued to lay to, the Ships which had received Damages in the Action employed in refitting. —The *Intrepid* and *Chesterfield* having carried Sail all Night, and being out of Sight, I ordered the *Phoenix*, *Dolphin* and *Experiment* to make Sail in different Quarters to look for them. —At Noon Cape *Mola* was by our Reckoning N. W. half N. Distance about nine Leagues.

The 22d,

Light Airs of Wind, easterly and hazy Weather, the Fleet continuing to lay to, the Ships that had received Damages employed in refitting. —I appointed Capt. *Hervey* to command the *Defiance* in the room of Capt. *Andrews* killed in the Action.

About Seven in the Morning,

Observing a Boat to the Windward of the Fleet, I sent the Schooner to tow her down, which proved
to

to be the *Lancaster's* long Boat cut adrift during the Action.

About the same Time I gave out a new Line of Battle, having changed the Stations of some of the crippled Ships; and put two of them, *viz.* the *Captain* and *Defiance* in my own Division, and the *Revenge* and *Kingston* in the Rear Admiral's Division in their Places.

About Nine,

The *Dolphin* having made a Stretch to the Southward to fetch into the Fleet, made the Signal for seeing the *Intrepid* and *Chesterfield*, and stood towards them in the S. W. Quarter.

At Eleven,

I made sail with the Fleet towards them.

In the Afternoon, upon Capt. *Hervey's* Representation that the *Defiance* was very weakly manned, and but few Seamen, I sent a Mate from on board the *Ramillies* with thirty Seamen to assist in refitting her.

At Eight in the Evening,

Having joined the *Intrepid* and *Chesterfield*, I brought to with the Fleet, their Heads to the Northward.

The 23d,

The first Part of the Day, fresh Gales from the eastward and hazey, the middle and latter Part moderate, sometimes little Wind and Calms.

The Fleet laying to, the Ships that had received Damage in the Action refitting.

In the Morning I ordered the Officer of the Watch to view the Situation of the crippled Ships as they appeared to him, and minute down the Particulars, and to give me a Copy of it, which he did as follows.

The

The *Captain* with her Fore-Yard and Fore-Top-mast down, no Main-Top-Gallant Mast up, and Main-Top-Sail Yard unrigged, laying a-crofs upon the Cap, and the Sail unbent.

The *Defiance*, with her Main-Yard and Fore-Top-Gallant Mast down, Main-Top Sail furled, and Fore-Top Sail double reefed.

The *Portland* with her Fore Yard down, and Fore and Main Top Sails down upon the Cap.

The *Intrepid* with Jury-Top Masts.

I ordered Surveys on the Damages received by the crippled Ships in the late Action, and on their Stores; and gave Capt. *Lloyd* an Order to command the *Princess Louisa* during Capt. *Noel's* Illness, who had lost a Leg in the late Action; and Lieut. *Gough* an Order to command the *Chesterfield* during Capt. *Lloyd's* Absence.

About Six in the Evening;

Eight or Nine Sail of the Enemy were seen in the N. E. Quarter; the Haze prevented our seeing the whole, or discerning clearly how they stood.

I ordered the Officer of the Watch to view the Situation of the lame Ships, and at the same Time to minute down the Particulars, and give me a Copy of it signed, which he did as follows:

The *Defiance* with her Main and Fore Yards down, her Fore Top Mast struck, and Main Top Sail furled.

The *Captain* with her Fore Yard and Top Mast down, and no Main Top Gallant Mast; her Main Top Sail Yard unrigged, and lying a-crofs upon the Cap, and the Sail unbent.

The *Portland* with her Fore Yard down, and Fore and Main Top Sails upon the Cap.

The *Intrepid* with Jury Top Masts.

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The Ships of the Fleet in this Situation, did not appear to me as yet in a Condition fit to attack or receive the Enemy; and, therefore, after having consulted with the Rear Admiral upon that Head, about half an Hour after Seven I wore with the Fleet, and stood under an easy Sail to the Southward for about four or five Miles.

The remaining Part of the Night, and next Morning it was calm.

On the 24th.

The Condition of the Fleet, and other Circumstances, making it appear to me necessary, and as it was agreeable to the Rear-Admiral's Opinion, I called a Council of War, the Subject of which, together with the Resolutions, have been already laid before this Court.

What I have now laid before you, to the best of my Knowledge, Observation and Judgment, is a true Account of the Disposition and Proceedings of his Majesty's Fleet during the six Days off *Minorca*, without any Exaggeration, false colouring, or Concealment, of the smallest Circumstance that can tend to give the Court any Information with Regard to the Proceedings of his Majesty's Fleet, or my own personal Conduct; nor am I conscious of having in a single Instance sacrificed Truth to Safety.

The greatest Part of this Narrative, if not the whole, has been proved, I hope, to the Satisfaction of this Court already; and, I presume, will appear consistent with, and a proper Execution of my Duty, conformable to the Rules of Prudence, the Art of War, and the established Discipline of the Navy. But I must here beg Leave to remark again, that should any other Disposition for attacking the Enemy be thought more advantageous than that I made, yet it cannot come within the Limits
of

of my Charge. For should a Charge, depending upon Judgment in making the Disposition, be brought against a Commander in Chief---I believe I may venture to affirm, that should such Discipline be once established, no Officer can be safe in taking upon him the Command of a Fleet.---It is evident, next to a Demonstration, there never yet was a Disposition for a Battle, either by Sea or Land, made by any Commanding Officer, whether successful or unsuccessful, which being minutely canvassed and examined, would not admit of some Amendment.

As the Evidence may seem defective, since there are no Witnesses to produce from the *Captain* or *Princess Louisa*, and but few from several other Ships in the Fleet, many of them that will appear to be necessary, and no Doubt are so to my more full Justification; I beg Leave to lay before the Court my Letters to Mr. *Cleveland*, Secretary of the *Admiralty*, earnestly requesting such Witnesses, together with his Answers: which Letters will serve to give the Court a Specimen of the unprecedented Oppression and Restriction of Privileges I have had to struggle with.

Greenwich Hospital, September 6, 1756.

S I R,

IN my Letter of Date the 4th of *Aug.* with a List of Evidence, I sent you the Names of all that occurred to my Memory then; but as I presume their Lordships will think it requisite that the Evidence ought not to be confined to any particular Number on so important an Occasion, where a strict and impartial Enquiry to come at the Truth, is of the utmost Consequence; but

ought to include as many Captains and other Officers as by their Situation on the Day of the late Action in the *Mediterranean*, are able to give the necessary Information. As I hear some Captains are going out to the *Mediterranean*, by whom I hope their Lordships will send Orders, I send you another List of Witnesses that to me appear extremely necessary, presuming that their Lordships do not desire to restrain me in what may appear necessary for the Illustration of Truth, and for my Justification, in a Case where my Honour, my All is at Stake. I am sorry for want of knowing the Names, that I am obliged to distinguish many by their Offices, and the Spheres they acted in, the Day of the late Action; and am sensible of the Disadvantage of sending for Witnesses at random at such a Distance, without a Probability of knowing the Depth of their Knowledge, or their Observations, owing to my Consciousness of having duly discharged my Duty, and not knowing sooner what an odious Light my Conduct was placed in here in *England*, by the Industry of some as yet invisible Persons who are indefatigable in propagating Falsehoods to my Dishonour. I hope their Lordships will think my Request a very reasonable one, and tho' such the Inconveniencies and Difficulties I am obliged to struggle with, yet my Conscience tells me I shall do well.

I am, Sir,

Your most humble Servant,

J. BYNG.

John Clevland, Esq;

*A further List of Witnesses requested from the
Mediterranean.*

Lieut. Taylor,
Lieut. Peighin,
Lieut. Cunningham,
The Master
Of the Captain, at the Time of Action.

Lieut. Baker, late of the *Defiance*, now of
the *Hampton Court*,
Captain Durell,
The Lieutenants and Master
Of the Trident, at the Time of Action.

Captain Cornwall,
The Lieutenants and Master
Of the Revenge, at the Time of Action.

The Lieutenants and Master
Of the Princess Louisa, at the Time of Action.

The Master and Gunner
Of the Culloden, at the Time of Action.

Mr. John Mercer, Lieutenant,
Mr. John Scott, Master
Of the Deptford.

Mr. William Hemmings,
Mr. Daniel Pickering,
Mr. William Babb,
Mr. William Holland,
Mr. James Cummins,
Midshipmen of the Ramillies.

Mr. John Irwin, Master of the *Experiment*.

Admiralty-

Admiralty-Office, Sept. 9th, 1756.

S I R,

I HAVE received and communicated to my Lords Commissioners of the *Admiralty* your Letter of the 6th Instant, inclosing a further List of Witnesses which you desire may be sent for from the *Mediterranean*, being Officers in his Majesty's Fleet there; and in return thereto am commanded by their Lordships to acquaint you, that as you lie under an Imputation of Misbehaviour, by means whereof the Honour and Interest of this Kingdom hath suffered in the most essential Manner, and stand committed to the Marshal of the High Court of *Admiralty* to answer for the same; their Lordships were desirous, in Justice to the Publick as well as Tendernefs to yourself, to give you the earliest Opportunity of acquitting yourself, if possible, from so heavy a Charge; and therefore directed me, as appears by my Letter of the 31st of *July* last, to give you an Intimation of their Intention to bring you to your Tryal; their Lordships hoped, as there were then in *England* no fewer than twenty Officers who had served on board the Fleet under your Command; not one of whom had come, or been sent for, upon the least Intimation or Knowledge of what Evidence he could give upon the Occasion; and as amongst them there were several who must be presumed under a particular Bias (as far as Truth will permit) in your Favour, their Lordships thought you would have considered this Number of Officers of all Ranks, from different Parts of the Fleet, who from various Accidents had happened to come over, sufficient to clear up the Matter according to the Truth and Justice of the Case; and have desired an immediate Tryal upon the Evidence now in *England*; but by your Letter of the 4th of *August*,

gust, you sent a List of thirty-seven Witnesses as necessary to your Defence, twenty three of whom were then in the *Mediterranean*, their Lordships, though greatly surpris'd at the Number required, and well satisfied that they could not all be necessary; yet notwithstanding the Detriment which must arise to the public Service, by calling so many Persons home from the Fleet at this Time, and the long Delay of your Trial occasioned thereby, they ordered me to acquaint you, by my Letter of the 12th of *August*, that all the Sea-Officers you had desired might be sent for, were ordered to be brought home in his Majesty's Ship *Colchester*; and that their Lordships had applied to the King for Leave for all the Land-Officers you had desired, to come at the same Time.

Under these Circumstances they cannot help expressing their Astonishment at your Application of the 6th Instant, with a new List of no fewer than 31 Officers to be sent for, without the least Fact, Proof, or even Allegation to support this Request, or to excuse it's not being made before; their Lordships look upon it merely as a Scheme suggested to you to delay your being brought to a Trial, which must be the necessary Consequence, if your Application should be complied with; by the same Means you may put off your Trial for ever; it is but applying for a new List every Month or six Weeks, and at last concluding with a Desire that the whole Fleet may be brought Home. Justice to a Person accused who may be innocent, requires that he should have a reasonable Opportunity of making and proving his Defence; this you have already had to the utmost of your own Desire, and been indulged to so great an Extent as may make an Example very dangerous to the Service and Discipline of the Navy; but Justice to the Public requires that a Person accused, who
certainly

certainly may be guilty, should not under the bare Pretence of desiring Means of Defence make his Trial absolutely impracticable.

I am therefore commanded by their Lordships to acquaint you, that so soon as the Witnesses already sent for shall come over, they intend to bring on your Trial, which they see no Reason to postpone any longer, barely on Account of the new Application made by your aforesaid Letter of the 6th Instant, and that you have laid no Grounds before their Lordships sufficient to induce them to give the least Countenance to so extraordinary an Attempt.

I am, S I R,

Your most humble Servant,

To the Hon.
Admiral Byng.

J. Cleveland.

Greenwich-Hospital, September 14, 1756.

S I R,

I Have received your Letter of the 9th Instant, in which your Manner of reasoning seems very extraordinary. I shall not comment upon that prejudging Expression of yours, "an Opportunity of acquitting myself, if possible," it seems sufficiently to explain itself; but I cannot pass by unnoticed your "presuming several of the Witnesses now in *England* having a particular Bias, as far as Truth will permit, in my Favour." Whence should that Bias arise? If from the Hopes of Reward, or Fear of Punishment: Rewards and Punishments are certainly in other Hands than mine.

And how great is my Astonishment at your mentioning

mentioning their Lordships Tenderness to me, and their Indulgence! Phrases I did not expect to meet with. Can being kept moving backward and forward from one Place of Confinement to another, for near three Weeks after my Arrival in *England*, so as to make it impossible for me to prepare any Thing relating to my Defence, be called by either of these Names? Or can my close Confinement at *Greenwich*, without suffering even my menial Servants to remain in the House after Dark, be called so? And I think I have a Right to complain of that Cruel Countenance and Belief, which seems to be given to a groundless Report, of my having attempted to make my Escape, and the rigid Orders given in Consequence of it, as if intended to confirm it; a Report so injurious to me, and so absolutely without Foundation; from which the Marshal and the Officers who have commanded the Guards here, as well as every private Centinel can fully vindicate me.——And I cannot here avoid observing, that all Charge of keeping me in Custody seems to be taken from the Marshal, and committed to the Governor of the Hospital, by the Orders given in his Name, who seems diligent in distinguishing himself in the Service of his Country, by imposing upon me all the Indignities and Inconveniences that Power can enable him to do.

Had their Lordships, as you are pleased to say, intended me the earliest Opportunity of acquitting myself, it is very difficult to conceive why they were not pleased to communicate their Intentions of bringing me to a Trial, at the same Time that I received their Orders to strike my Flag, and resign the Command of the Fleet in the *Mediterranean* to Sir *Edward Hawke*; that would have been but doing me Justice, in giving me an Opportunity of considering my Conduct, and the Proof necessary

to be given in support of it, at a Time when no conscious Guilt or Misconduct suggested to me, that I was to be arrested upon my Arrival in *England*; closely confined, and then brought to Trial; for surely no Person was to suppose that I was to look upon an Extract of an Enemy's Letter, and that Extract (if from a genuine Letter) a mere Gasconade and absolute Falshood, as sufficient to ground a Charge against me.

I must observe again, that in my Letter of the 4th of *August*, I mentioned particularly the Names of all that occurred to me then; nor is it Matter of Wonder that I could not at once think of all the Witnesses necessary for my Defence. It would rather be Matter of Wonder, restrained and distressed by all the Methods Power can impose, and personally disturbed Day and Night, if I had immediately thought of all the Witnesses, or a sufficient Number capable of giving Testimony in my Behalf. But surely it can be no Cause of Astonishment, that accused of Crimes of the highest Nature, and conscious of my own Innocence, I should be desirous of producing all such Witnesses as appear to me necessary.

I must also observe, that I could not possibly know for what Purpose any of the Officers now in *England* came home; and therefore could have no Idea, that they were considered as the Witnesses necessary for my Defence. But if it was known to their Lordships, that these Gentlemen came to *England* in order to prove me guilty of Misconduct, certainly I should have had the earliest Opportunity of bringing home my Witnesses. And if I had desired an immediate Trial upon my Arrival in *England*, as your Letter seems to intimate, I must have desired it before I knew of any Charge, and without Witnesses to produce in my Defence.

What

What Fact, Proof, or Allegation their Lordships expected from me in support of my Request, is not easy to conceive; can any stronger be requisite, than that they are necessary Witnesses, and a List given within a reasonable Time, all Circumstances considered, and at a Time when there is proper Opportunity of sending for them, and of sending other Officers to supply their Places.—Giving in an additional List of Witnesses is not unprecedented, and the greater the Number examined, the more conspicuous must Guilt or Innocence appear. The Reason of their not being requested, or occurring to me as necessary sooner, is easily deduced from the unparallel'd Treatment and unprecedented Hardships, and Inconveniences that I have had to struggle with.

Far from delaying or attempting to render my Trial impracticable, I do assure you their Lordships cannot be more eager and solicitous to have me brought to Trial than I am; but a Trial without the necessary Witnesses cannot be considered as any Trial at all; rather an Act of Power than an Act of Justice; and must be a Precedent much more dangerous than that hinted at in your Letter; and I cannot resign my just and legal Claim to call upon Witnesses that are necessary to vindicate my Conduct, and make the Truth evident.

I am, S I R,

To the Hon.
J. Cleveland.

Your most humble Servant,

J. BYNG.

Justice to myself demands, and I hope will be thought a sufficient Apology, for that Freedom and Plainness becoming a Man in my Circumstances.—It is far from my Purpose to endeavour

fixing any Blame or Imputation, even on my greatest Enemies, without Reason. But the Indignation and Resentment of an incensed Nation, is a Load much too heavy for me to bear, though it has been my Misfortune to struggle under it so long. And therefore I must entreat the Court to forgive my taking up some Part of their Time, in proving what may at first View seem unnecessary by the Nature of my Charge : That I may vindicate my Conduct to an incensed and deluded Nation, taught hitherto to look upon me as a principal Cause of the Public's Misfortunes, and as a Man guilty of the most odious of all military, and most contemptible of all civil Crimes.

No Symptom of Cowardice, that odious and capital Part of my Charge, has hitherto appeared to the Court ; and my Innocence, and conscious Discharge of my Duty, makes me confident that none will appear. Yet have I already suffered the severest Penalties that can be inflicted on it, being hung up in Effigy, traduced by Libels, tortured by Misrepresentations and Calumny, disgraced and superseded, upon no better Authority than the Gasconade of the *French* Admiral, arrested and confined beyond the Example of former Times, treated like a Felon with every Indignity, and my Life pursued with the most inveterate Malice. But all this I have had Fortitude enough to despise, and treat with the Contempt it deserves, the Result of a Conscience clear of all Crimes.

I must now beg Leave to lay before the Court the * Orders for discharging the Marines, and for embarking *Ld. Robert Bertie's* Regiment, which last points out the Destination and Service intended for his Lordship's Regiment ; and also some Letters of Intelligence relating to the Enemy's Embarkation,

* Vide Appendix.

barkation, Force of their Fleet, Reinforcement expected, and other Particulars.

I shall not trespass any longer on the Patience of the Court, having nothing farther to add, besides some Observations hereafter on the Evidence, if the remaining Time will admit of it. But I fear it will require a much longer Time than I shall have to do it in, and a much abler Hand than mine to discuss and digest Minutes of such a Nature, and of so great a Length : Therefore, relying on the Candor and Ability of my Judges, as my only and proper Council, I must beg that they will be pleased to allow for my Defects and Omissions, and supply my want of more proper Talents to explain and support my Innocence.

F I N I S.

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 the Court, having nothing farther to add, besides
 some Observations hereafter on the Evidence, if
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 it will require a much longer Time than I shall
 have to do it in, and a much shorter Time than mine
 to discuss and digest Minutes of such Nature, and
 of so great a Length: Therefore, I beg on the
 Order and Ability of my Judges, as my only and
 proper Council, I may beg that they will be pleased
 to allow for my Defence and Confutation, and supply
 my want of more proper Arguments to explain and
 support my Innocence.

I W I L L